

Amendments to House Bill No. 473
3rd Reading Copy

Requested by Senator Christine Kaufmann

For the Senate Natural Resources and Energy Committee

Prepared by Joe Kolman
April 13, 2007 (6:47pm)

1. Title, line 7.

Following: "REPEALING"

Insert: "CERTAIN PARTS OF"

2. Title, line 12.

Strike: "PROVIDING" through "FEES;"

3. Title, line 13.

Strike: "15-1-216,"

Strike: "85-2-270,"

Following: "85-2-271,"

Insert: "85-2-276,"

4. Title, line 13 through line 14.

Following: "REPEALING"

Strike: remainder of line 13 through "AND" on line 14

5. Page 1, line 19 through page 3, line 1.

Strike: section 1 in its entirety

Renumber: subsequent sections

6. Page 4, line 25 through page 5, line 11.

Strike: section 3 in its entirety

Renumber: subsequent sections

7. Page 6, line 3.

Following: "year"

Insert: "the fee contained in 85-2-276 that is attached to a water right for the purpose of funding the adjudication may not be assessed the following even-numbered year and"

8. Page 6.

Following: line 12

Insert: "Section 3. Section 85-2-276, MCA, is amended to read:

"85-2-276. (Temporary) Water adjudication fees -- exceptions. (1) (a) Except as provided in subsection subsections (1) (c) and (10), a water adjudication fee is authorized and directed to be imposed by the department of revenue on all water rights.

(b) Except as provided in 85-2-271, 85-2-280, and

subsections (1)(c), (9), and (10) of this section, an owner shall pay a biennial fee for the purpose of funding Montana's water adjudication based on the fees established in subsections (4) through ~~(7)~~ (6) of this section.

(c) The water adjudication fee may not be imposed on federal water rights and tribal reserved and aboriginal claims to water.

(2) The water adjudication fee is due on January 31 of even-numbered years. The penalty and interest provisions contained in 15-1-216 apply to late payments of the fee.

(3) (a) Subject to subsection (3)(b), the department of revenue may withhold revenue equal to the actual cost of collecting the water adjudication fee.

(b) The department of revenue may not withhold more than 5% of the revenue generated.

(4) (a) An owner for the purposes described in subsections (4)(b) through (4)(f) shall pay according to a graduated scale. The number of water rights for which a fee must be paid on a per-purpose basis is capped at 20 water rights a person for each graduated level.

(b) For Subject to subsection (10), for a commercial water right with a claimed or calculated volume that is:

(i) 0 acre-feet to 100 acre-feet, the fee is \$20;

(ii) greater than 100 acre-feet and less than or equal to 5,000 acre-feet, the fee is \$1,000; and

(iii) greater than 5,000 acre-feet, the fee is \$2,000.

(c) For Subject to subsection (10), for an industrial water right with a claimed or calculated volume that is:

(i) 0 acre-feet to 1,000 acre-feet, the fee is \$20;

(ii) greater than 1,000 acre-feet and less than or equal to 4,000 acre-feet, the fee is \$1,000; and

(iii) greater than 4,000 acre-feet, the fee is \$2,000.

(d) For Subject to subsection (10), for a mining water right with a claimed or calculated volume that is:

(i) 0 acre-feet to 1,000 acre-feet, the fee is \$20;

(ii) greater than 1,000 acre-feet and less than or equal to 4,000 acre-feet, the fee is \$1,000; and

(iii) greater than 4,000 acre-feet, the fee is \$2,000.

(e) For Subject to subsection (10), for a municipal water right with a claimed or calculated volume that is:

(i) 0 acre-feet to 1,000 acre-feet, the fee is \$20;

(ii) greater than 1,000 acre-feet and less than or equal to 4,000 acre-feet, the fee is \$1,000; and

(iii) greater than 4,000 acre-feet, the fee is \$2,000.

(f) For Subject to subsection (10), for a power generation water right, both consumptive and nonconsumptive, with a claimed or calculated volume that is:

(i) 0 acre-feet to 100,000 acre-feet, the fee is \$20;

(ii) greater than 100,000 acre-feet and less than or equal to 1 million acre-feet, the fee is \$1,000; and

(iii) greater than 1 million acre-feet, the fee is \$2,000.

~~(5) Except for instream flow water rights used for irrigation purposes or for the purposes identified in subsection (4), an instream flow water right or an instream flow water reservation, with a claimed or calculated volume that is:~~

~~— (a) 0 acre-feet to 50,000 acre-feet, the fee is \$20;~~

~~— (b) greater than 50,000 acre-feet and less than or equal to 1 million acre-feet, the fee is \$1,000; and~~

~~— (c) greater than 1 million acre-feet, the fee is \$2,000.~~

~~(6)~~ (5) The Subject to subsection (10), the fee for an irrigation water right or irrigation claim that is part of an irrigation district, ditch company, canal company, irrigation project, water user's association, or other organized group with the purpose of allocating irrigation water is \$20 a user, with the fee capped at 40 users. The fee must be paid by the user. If an irrigation district, ditch company, or water user's association has more than 40 users, the fee may not exceed \$800 and must be split equally among the users.

~~(7)~~ (6) The Subject to subsection (10), the fee for all water rights that are not subject to subsections (4) ~~through (6)~~ and (5) is \$20. The fee is capped at 20 water rights a person for purposes that are not addressed in subsections (4) ~~through (6)~~ and (5).

~~(8)~~ (7) The fees established in subsections (4) through ~~(7)~~ (6) apply to all water rights on record with the department that are not withdrawn or terminated.

~~(9)~~ (8) A person may file an administrative appeal with the department to contest the total amount of the fee assessed against the person or a fee imposed based on incorrect ownership records.

~~(10)~~ (9) Fees authorized in this section may not be assessed after June 30, 2014.

(10) The department of revenue may not assess a water adjudication fee against an owner whose biennial fee is determined by the department of natural resources and conservation to be \$400 or less. (Terminates June 30, 2020--sec. 18, Ch. 288, L. 2005.)"

{ Internal References to 85-2-276:

15-1-216 x	85-2-270 x	85-2-270x	85-2-271x
85-2-272x	85-2-272x	85-2-273x	85-2-273x
85-2-280a	85-2-280 a	85-2-280a	85-2-281a
85-2-283x} "			

Renumber: subsequent sections

9. Page 7, line 2.

Following: line 2

Insert: "(3) (a) Subject to subsection (3) (b), the total amount of revenue deposited in the water adjudication account from the fee provided for in 85-2-276 may not exceed \$31 million.

(b) If federal funds are appropriated for the purposes of 85-2-270 through 85-2-273, 85-2-276, and 85-2-279 through

85-2-283, the maximum amount that may be deposited in the account must be reduced by the amount of federal funds appropriated.

(c) Once revenue generated from the fees provided for in 85-2-276 and any federal revenue appropriations have reached \$31 million, the fee may no longer be assessed."

Renumber: subsequent subsections

10. Page 7, line 10.

Strike: "\$25"

Insert: "\$16.7"

11. Page 7, line 19.

Following: "~~85-2-280~~"

Insert: "the total revenue generated by the fees established in 85-2-276 and deposited in the account provided for in 85-2-280 and"

12. Page 7, line 24.

Following: "money"

Insert: ", "

Strike: "and"

Following: "revenue"

Insert: ", and the allocated fee revenue"

13. Page 7, line 27 through page 8, line 3.

Strike: section 8 in its entirety

14. Page 8, line 5 through line 6.

Strike: "Sections" on line 5 through "and section" on line 6

Insert: "Section"

15. Page 8, line 6.

Strike: "are"

Insert: "is"

16. Page 8, line 10.

Strike: "2"

Insert: "1"

Strike: "5"

Insert: "4"

Strike: "7"

Insert: "6"

- END -